

Merck & Co., Inc.
P.O. Box 2000
Rahway, NJ 07065

FWM

9200

Patent Department

Facsimile Cover Sheet

TODAY'S DATE: June 16, 2005**PLEASE DELIVER THE FOLLOWING MATERIALS TO:**

Examiners Name: not yet assigned

Examiner/Group Telefax Number: OIPE Customer Service of the U.S. Patent & Trademark Office
703 308-7751**THIS MESSAGE IS FROM:**Name: J. Mark Hand, Esq.Phone No.: (732) 594-3905Mail Location: RY60-30Telefax No.: (732) 594-4720

RECEIVED

DEC 07 2006

OFFICE OF PETITIONS

RE: U.S. Appl. Serial No.: 09/888,304
Filing Date: 6/22/2001
Applicants File Ref: 20703Y
For: POLYNUCLEOTIDE VACCINE ADJUVANTS AND FORMULATIONS
CONTAINING CATIONIC SURFACTANTS AND METHODS OF USE

NUMBER OF PAGES BEING TRANSMITTED (INCLUDING COVER): 12

Responsive to 'Notice of Abandonment under 37 CFR 1.53(f) or (g) mailed 4/22/05 Confirmation No. 9551, please find the following:

1. Petition to Withdraw Holding of Abandonment, 37 CFR 1.181(a)
2. Exhibit A - true copy of originally filed reply mailed 9/27/2001;
3. Exhibit B - copy of internal postcard sent with reply;
4. Copy of Confirmation Letter No. 9551 mailed on 4/22/05 to applicants.

IF THIS COPY BEING FAXED IS OF A POOR QUALITY OR NOT READABLE, APPLICANTS WOULD VERY MUCH APPRECIATE A
BE MADE TO DR. HAND AT 732 594-3905 TO ADVISE HIM, IF AT ALL POSSIBLE, SINCE THERE IS A RUNNING DUE DATE.
Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (732) 594-4796**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that the above-identified papers are being facsimile transmitted to the United
States Patent and Trademark Office on the date shown below

ALINA T. ROCHE

Type or print name of person signing certification

Alina T. RocheJune 16, 2005

Signature

Date

BEST AVAILABLE COPY

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert K. Evans		
Serial No.:	09/888,304	Case No.:	20703Y
Filed:	22 June 2001		
For:	POLYNUCLEOTIDE VACCINE ADJUVANTS AND FORMULATIONS CONTAINING CATIONIC SURFACTANTS AND METHODS OF USE		

Art Unit:

Confirmation No. 9551

Examiner:

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OFFICE OF PETITIONS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT, 37 C.F.R. 1.181(a)

Sir:

In response to the Notice of Abandonment Under 37 C.F.R. 1.53 (f) or (g), (herein, "Notice of Abandonment") mailed 22 April 2005, please consider the following Petition, entered under 37 C.F.R. 1.181(a), to withdraw this Notice of Abandonment in regard to the above-identified application. Time for responding to the Notice of Abandonment has been set for 22 June 2005. In the event any fee is due for entry and/or consideration of this Petition, please charge Deposit Account No. 13-2755 any appropriate fee, as a large entity. Please credit any overpayment to Deposit Account No. 13-2755.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is being facsimile transmitted to OIPE Customer Service of the U.S. Patent and Trademark Office via facsimile number 703-308-7751 on the date appearing below.

MERCK & Co., Inc.

By Julia J. RocheDate: June 16, 2005

U.S. Appl. Serial No.:09/888,304
Merck Case No.:20703Y
Petition Under 37 C.F.R. 1.181(a)
Confirmation No. 9551
Page-2-

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DEC 07 2006

REMARKS**OFFICE OF PETITIONS**

A Notice of Abandonment Under 37 C.F.R. 1.53 (f) or (g), (herein, "Notice of Abandonment") was mailed 22 April 2005 in regard to the above-identified application. Applicant respectfully requests, by Petition under 37 C.F.R. 1.181(a), reconsideration and withdrawal of the Notice of Abandonment entered in this application.

A true copy of the originally filed reply is attached as Exhibit A. Theses papers were filed in response to a Notice to File Missing Parts of Nonprovisional Application, mailed 10 August 2001, requesting submission of an executed oath and declaration in the above-identified application. In response to this Notice to File Missing Parts, Applicants submitted under "First Class Mail Certificate," the following: (i) Fee Transmittal Sheet; (ii) oath and declaration executed by Robert K. Evans on 06 September 2001; and, (iii) a copy of the Notice to File Missing Parts of Nonprovisional Application (of which an additional Certificate of Mailing was executed for that specific paper).

Attached as Exhibit B is a photocopy of the internal postcard prepared and included with the above-mentioned papers. The undersigned attorney respectfully notes that, to date, our office has not received a properly itemized date-stamped version of this postcard as receipt from the PTO.

This Petition is filed in response to the Notice of Abandonment, issued recently on 22 April 2005. To this end, entry of this Petition, under 37 C.F.R. 1.181(a) is timely.

The undersigned attorney executed each Certificate of Mailing shown in the originally filed papers. I have a reasonable basis to expect that the papers in question were deposited with the U.S. Postal Service as first class mail, on 27 September 2001, almost two weeks prior to the deadline of 10 October 2001 for submission of a proper response to the Notice to File Missing Parts.

U.S. Appl. Serial No.:09/888,304
Merck Case No.:20703Y
Petition Under 37 C.F.R. 1.181(a)
Confirmation No. 9551
Page-3-

Therefore, Applicant respectfully requests reconsideration and withdrawal of the Notice of Abandonment mailed in the above-identified application. Early action to that end is earnestly solicited.

Respectfully submitted,

Date: 16 June 2005

By: J. Mark Hand
J. Mark Hand
Reg. No. 36,545
Attorney for Applicant
Merck & Co., Inc.
P.O. Box 2000
Rahway, NJ 07065-0907
(732) 594-3905

FEE TRANSMITTAL

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

\$130

Application Number

09/888,304

Filing Date

June 22, 2001

First Named Inventor

Robert K. Evans

Examiner Name

RECEIVED

Group Art Unit

Attorney Docket Number

20703Y

DEC 07 2001

METHOD OF PAYMENT (Check one)

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number

13-2755

Deposit Account Name

Merck & Co., Inc.

- ☒
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	710	Utility filing fee	
106	320	Design filing fee	
108	710	Reissue filing fee	
114	150	Provisional filing fee	

SUBTOTAL(1)

\$0

2. EXTRA CLAIM FEES

	Extra	Fee from below	Fee Paid
Total Claims	20	0	0
Independent Claims	3	0	0
Multiple Dependent Claims			

**or number previously paid, if greater; For Reissues, see below

Large Fee Code	Entity Fee (\$)	Fee Description
103	18	Claims in excess of 20
102	80	Independent claims in excess of 3
104	270	Multiple dependent claim, if not paid
109	80	**Reissue independent claims over original patent
110	18	**Reissue claims in excess of 20 and over original patent

SUBTOTAL(2)

\$0

FEE CALCULATION (continued)

3. ADDITIONAL FEES

OFFICE OF PETITIONS

Large Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	Surcharge - late filing fee or oath	130
147	2,520	For filing a request for reexamination	
115	110	Extension for reply within first month	
116	390	Extension for reply within second month	
117	890	Extension for reply within third month	
118	1,390	Extension for reply within fourth month	
128	1,890	Extension for reply within fifth month	
119	310	Notice of Appeal	
120	310	Filing a brief in support of an appeal	
121	270	Request for oral hearing	
140	110	Petition to revive - unavoidable	
141	1,240	Petition to revive - unintentional	
142	1,240	Utility issue fee (or reissue)	
143	440	Design issue fee	
122	130	Petitions to the Commissioner	
123	50	Petitions related to provisional applications	
126	180	Submission of Information Disclosure Statement	
581	40	Recording each patent assignment per property (times number of properties)	
146	710	Filing a submission after final rejection (37 CFR 1.129(a))	
149	710	For each additional invention to be examined (37 CFR 1.129(b))	
179	710	Request for Continued Examination (RCE)	

Other fee (specify)

Other fee (specify)

SUBTOTAL(3)

\$130

SUBMITTED BY

Complete (if applicable)

Typed or Printed Name

J. Mark Hand

Reg. Number

36,545

Signature

J. Mark Hand

Date

9/27/01

Deposit Account User ID

Application Number:

2/888.304

Filing Date:

06/22/2001

First Named Inventor:

Robert K. Evans

Group Art Unit:

Examiner Name:

Attorney Docket Number: 20703Y**FIRST CLASS MAIL CERTIFICATE**

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231, ON THE DATE APPEARING BELOW.

MERCK & CO., INC.

MAILED BY

J. Matthews

DATE

9/27/01**RECEIVED**

DEC 07 2006

OFFICE OF PETITIONS

**DECLARATION AND
POWER OF ATTORNEY
FOR UTILITY OR DESIGN
PATENT APPLICATION
(37 CFR 1.63)**☐ Declaration
Submitted
with Initial
Filing

OR

☒ Declaration
Submitted after Initial
Filing (surcharge
(37 CFR 1.16 (e))
required)

Attorney Docket Number

20703Y

First Named Inventor

Robert K. Evans

COMPLETE IF KNOWN

Application Number

09/888,304

Filing Date

June 22, 2001

Group Art Unit

Examiner Name

RECEIVED

DEC 07 2006

OFFICE OF PETITIONS

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**POLYNUCLEOTIDE VACCINE ADJUVANTS AND FORMULATIONS CONTAINING CATIONIC SURFACTANTS, AND
METHODS OF USE**

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 06/22/2001 as United States Application Number or PCT International

Application Number 09/888,304 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Attorney Docket Number	Priority Claimed?	
				YES	NO
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	Attorney Docket Number
60/213,622	06/23/2000	20703PV
60/214,824	06/28/2000	20703PV2

DECLARATION AND POWER OF ATTORNEY for Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information known to me to be material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Parent Application Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
		RECEIVED
		DEC 07 2006
		OFFICE OF PETITIONS

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint, respectively and individually, as my attorneys or agents with full power of substitution and revocation, the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

☐ Customer Number OR
☒ Registered practitioner(s) name/registration number listed below

Place Customer Number
Bar Code Label here

Name	Registration Number	Name	Registration Number
J. Mark Hand	36,545	Jack L. Tribble	32,633

Direct all correspondence to: ☒ Customer Number or Bar Code Label

000210

Name	J. Mark Hand				
Address	Merck & Co., Inc., - Patent Department				
Address	P.O. Box 2000, RY60-30				
City	Rahway	State	NJ	ZIP	07065-0907
Country	USA	Telephone	(732)594-3905	Fax	(732)594-4720

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:

☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Robert K.	Evans

Inventor's Signature	<i>Robert K. Evans</i>	Date	06 Sept 2001
----------------------	------------------------	------	--------------

Residence: City	Souderton	State	PA	Country	USA	Citizenship	US
-----------------	-----------	-------	----	---------	-----	-------------	----

Post Office Address	Merck & Co., Inc., P.O. Box 2000				
City	Rahway	State	NJ	ZIP	07065-0907

☐ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/888,304	06/22/2001	Robert K. Evans	20703Y

000210
MERCK AND CO INC
P O BOX 2000
RAHWAY, NJ 070650907

CONFIRMATION NO. 9551

FORMALITIES LETTER



OC000000006412273

Date Mailed: 08/10/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

A copy of this notice MUST be returned with the reply.

Charles K. Reddy
Customer Service Center
Initial Patent Examination Division (703) 308-1202

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PART 2 - COPY TO BE RETURNED WITH RESPONSE

OFFICE OF PETITIONS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date appearing below.

MERCK & CO. INC.
By *J. [Signature]* Date *9/27/01*
Res. No. 36,345

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DEC 07 2006
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DEC 07 2006

OFFICE OF PETITIONS

P&T OFFICE ACKNOWLEDGEMENT

ATTORNEY J. M. Hand		DATE 9/27/01
CASE NUMBER/ 20703Y	SERIAL NUMBER 09/888,304	
DATE FILED 6/22/01		
APPLICANT Robert K. Evans		
EXPRESS MAIL NO.		

The Patent & Trademark Office acknowledges, and has stamped hereon, the date of the receipt of the items checked below:

- ☐ AMENDMENT
- ☐ APPEAL AND FEE
- ☐ ASSIGNMENT
- ☐ BRIEF
- ☐ CERTIFICATE OF CORRECTION
- ☐ FINAL FEE
- ☐ LETTER
- ☐ REQUEST FOR F.F. LICENSE
- ☐ INFORMATION DISCLOSURE STATEMENT
- ☐ PTO 1449 & REFERENCES
- ☐ PETITION FOR EXTENSION OF TIME & FEE
- ☐ INVITATION TO CORRECT
- ☐ DEMAND-CHAPTER II & FEE SHEET
- ☒ Notice to file Missing Parts (9551)
- ☒ Originally signed Declaration
- ☒ Fee transmittal form \$130 surcharge

F4424

FWM
a2w

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/888,304	06/22/2001	Robert K. Evans	20703Y

CONFIRMATION NO. 9551

ABANDONMENT/TERMINATION
LETTER

OC000000015822740

000210
 MERCK AND CO., INC
 P O BOX 2000
 RAHWAY, NJ 07065-0907

Date Mailed: 04/22/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/10/2001.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37

CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

Request Withdrawal
Office of Initial Patent Examination (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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